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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ORACLE AMERICA, INC.,)
6 Plaintiff,)
7 vs.) No. CV 10-03561 WHA
8 GOOGLE, INC.,)
9 Defendant.)
10 _____)
11

12 -- HIGHLY CONFIDENTIAL, ATTORNEYS' EYES ONLY--
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14 Videotaped Personal Capacity deposition of
15 EDWARD SCREVEN, taken at Morrison & Foerster, LLP,
16 755 Page Mill Road, Palo Alto, California,
17 commencing at 9:42 a.m., on Friday, July 29, 2011,
18 before Leslie Rockwood, RPR, CSR No. 3462.
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1 general, we are more successful in business than Sun. I
2 mean, Sun built some great technologies, but they weren't
3 particularly good at bringing them to market and, you
4 know, I have every confidence that, you know, Oracle will
5 succeed with Sun's assets in a way that Sun never could 11:32:29
6 simply because we manage them better.

7 Q. BY MR. WEINGAERTNER: How does Oracle manage
8 better than Sun?

9 A. We're very focused on making money, so we're
10 very focused on building technology and then selling it 11:32:45
11 to our customers and supporting it well, right, while
12 making sure our costs are not out of control.

13 Q. Was there a perception that Sun was -- and
14 I'm going to use your characterization and please correct
15 me if I haven't done it correctly. 11:33:06

16 Was it your perception that Sun was less
17 focused on making money than Oracle is focused on making
18 money?

19 MR. NORTON: Objection to the form of the
20 question. 11:33:17

21 THE WITNESS: Yes.

22 Q. BY MR. WEINGAERTNER: At the time of the
23 acquisition, what was the perception as to -- by Oracle,
24 as to what Sun was focused on?

25 A. I think Sun had lost their way in terms of 11:33:24

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1 strategy. I mean, they -- while certainly they were
2 for-profit company and, you know, sought to sell and
3 sought to profit, I think that they, you know, had no
4 strategy for how it is that they were going to actually
5 add value to their customers beyond, you know, beyond
6 what other folks were doing.

11:33:44

7 Now, they did have a very strong focus on
8 engineering; right, and they created some very good
9 technology assets. But the thing that they didn't really
10 have is a way to tie them together and bring them to
11 market in the way that would be most appealing to their
12 customers.

11:34:02

13 Q. At the time of the acquisition or since then,
14 does Oracle have a specific strategy or ability other
15 than its general business acumen that you referred to,
16 for succeeding in the smartphone market or the mobile
17 platform?

11:34:22

18 A. I think Android has basically foreclosed
19 that. I don't believe that there is a strategy that we
20 could adopt at this point, right, to displace Android
21 given that they've sucked all out of the air out of the
22 room for Java on smartphones.

11:34:39

23 Q. What do you mean by "sucked out all the air
24 out of the room"?

25 A. Well, they are in the market with a clone of

11:34:52

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1 Java, right, they -- they've now shipped on millions and
2 millions of handsets; right, and that's going to make it
3 difficult for Oracle or anyone else who wants to ship a
4 licensed Java implementation for smartphones to succeed.

5 Q. Why hadn't Sun already gotten into that 11:35:13
6 market before Google had given that it -- when I say
7 "that market," the smartphone market, given it's success
8 in the feature phone market?

9 MR. NORTON: Objection to form.

10 THE WITNESS: You have to ask their prior 11:35:27
11 management.

12 Q. BY MR. WEINGAERTNER: Well, I guess that will
13 happen later today since you'll be speaking on behalf of
14 Oracle America.

15 A. Yes -- 11:35:41

16 MR. NORTON: Objection, that's not correct.
17 Mr. Screven in the 30(b)(6) portion of his deposition
18 will be testifying on behalf of Oracle America, but the
19 30(b)(6) notice seeks Oracle's -- we understood and
20 understand this was discussed at Nedim's deposition -- 11:36:00
21 that it's from the perspective of Oracle, it's the
22 acquisition of Sun.

23 So the suggestion that Mr. Screven will be
24 testifying as Sun's prior management is not correct.

25 MR. WEINGAERTNER: Okay, and noted that we 11:36:11

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1 Q. As far as you're concerned, Mr. Screven, what
2 is fragmentation of software? What does that term mean?

3 A. It means having, you know, implementations of
4 the same interfaces or API's or programing languages, you
5 know, that are -- that are -- that are not either 13:19:58
6 compatible now, they're similar, but not strictly
7 compatible, or even if they are strictly compatible now,
8 that they're -- it's likely that eventually they will
9 become incompatible.

10 Q. And do you have a view as to whether or not a 13:20:19
11 software company has a right that its software framework
12 not be fragmented?

13 MR. NORTON: Objection to form.

14 THE WITNESS: I think a software company has
15 copyrights, and it has patents, and it has trademarks, 13:20:39
16 and, you know, to the extent that, you know, any of those
17 rights are infringed by a fragmenting implementation, you
18 know, they have every right to enforce their rights.

19 Q. BY MR. WEINGAERTNER: Is it your view that
20 Oracle's plan is to monetize Java by enforcing its 13:21:01
21 intellectual property rights?

22 A. Enforcing our intellectual property rights is
23 certainly a necessary part of any plan to monetize any
24 kind of software.

25 Q. And is it Oracle's plan to monetize Java in 13:21:14

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1 the mobile area by enforcing intellectual property rights
2 as opposed to competing with a -- for example, a
3 smartphone mobile platform?

4 A. Well, we haven't brought suit against Apple.
5 Because Apple did not create a fragmented and infringing
6 implementation of Java.

13:21:34

7 Now, if we were to enter the smartphone
8 market for Java, right, we would, of course, be competing
9 against Apple.

10 Q. Does Oracle have any plans to enter that
11 market?

13:21:53

12 A. I don't think it's possible for us to enter
13 that market now given the infringing implementation of
14 Google.

15 Q. Why not?

13:22:08

16 A. Because Google moved first; right? So as
17 first mover with a Java clone which fragments Java and
18 which infringes on intellectual property rights, it's
19 very hard for us to compete. I mean, you want to be
20 successful in the market, you need to be one of the first
21 entrants.

13:22:23

22 Q. Can't you try to make a better product?

23 A. It's very hard even with a better product to
24 be the third entry, the fourth entry, the fifth entry
25 into a market; right? Java, you know, is, in my mind,

13:22:38

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1 pretty well locked out of the smartphone market because
2 of Android.

3 Q. Is Oracle, as far as you know, making any
4 effort to attempt to make a better product than Android
5 or the iPhone that would compete with either of those? 13:22:56

6 A. We constantly work to make Java better and
7 all kinds of platforms including, you know, small memory
8 footprint devices and, you know, lower CPU devices. We
9 continue to work harder on Java FX, you know, to make it
10 a better platform for running in those kinds of devices. 13:23:13

11 But one of the ways, of course, that we make
12 money in Java is by licensing it to other parties. So
13 we'd be very happy, very happy, to sell a license to
14 Google. But Google doesn't want to pay.

15 MR. WEINGAERTNER: Let's take a break. 13:23:39

16 THE VIDEOGRAPHER: The time is 1:23 p.m., and
17 we are off the record.

18 (Recess.)

19 THE VIDEOGRAPHER: The time is 1:39 p.m., and
20 we are back on the record. 13:39:42

21 MR. WEINGAERTNER: Thank you for your time
22 today, Mr. Screven. No further questions.

23 MR. NORTON: I have no questions for the
24 witness.

25 THE VIDEOGRAPHER: This marks the end of 13:39:48

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1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)

3

4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all
10 objections made by counsel at the time of the examination
11 were recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel
17 for any party to said action, nor am I related to any
18 party to said action, nor am I in any way interested in
19 the outcome thereof.

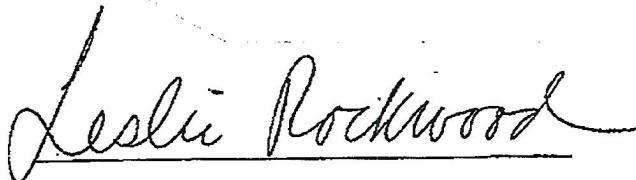
20 IN WITNESS WHEREOF, I have subscribed my name
21 this 30th day of July, 2011.

22

23

24

25



LESLIE ROCKWOOD, CSR. NO. 3462

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